

itors of the German Emigration Company, as a substitute for the bill.

Mr Palmer moved to lay the substitute on the table.

Mr Russell moved to lay the bill and substitute on the table ; lost by the following vote :

YEAS—Messrs. Burroughs, Flanagan, Grimes, Guinn, Hill, Martin, Pirkey, Russell, Scott, Weatherford, and Whitaker—11.

NAYS—Messrs. Allen, Doane, Ford, Lott, McDade, Maverick, Palmer, Pedigo, Scarborough, Superviele, Taylor of Fannin, Truit, and White—13.

The question then recurred on the motion to lay the substitute on the table, which was carried.

On motion of Mr Weatherford, the Senate adjourned till 10 o'clock to-morrow morning.

THURSDAY, JAN. 24th, 1856.

The Senate was called to order by the President pursuant to adjournment—prayer by the Chaplain—roll called—quorum present.

The Journal of yesterday was read and adopted.

Mr Potter presented the petition of Robert Baldwin, for transportation of supplies in 1837 ; referred to the committee on Public Debt.

Mr Guinn, chairman of the committee on Engrossed Bills, reported correctly engrossed—

A bill to define the 1st Judicial District, and to fix the time of holding the District Courts therein.

A bill for the relief of S A White.

A bill to provide for the liquidation and settlement of certain meritorious claims therein named.

A bill to amend the 7th Section of an Act to provide for the payment of six companies of mounted volunteers, that were mustered into the service of the State of Texas, on the 1st day of November, 1854, under requisition of Brevet Major General Persifer F Smith, and to pay the expenses incurred by said companies, approved 14th Jan'y 1856 ; and

A bill to change the time of holding Courts in the 10th and 14th Judicial Districts.

Mr Hill, from the committee on Private Land Claims, No 1, to which was referred the petition of John E English and Bailey English, reported the same back, recommending its rejection.

Mr Hill, from the same committee, made the following report :

The committee on Private Land Claims, to which was referred the petition of the heirs of R G Dunlap, find that the

deceased emigrated to Texas before the 1st of October, 1837, a single man—that he held several distinguished offices under the late Republic of Texas, and died whilst engaged in her service. The committee are of opinion that said Dunlap was entitled to a headright of 640 acres of land, and therefore report the accompanying bill, and recommend its passage:

A bill for the relief of the heirs of R G Dunlap; read first time.

Mr Grimes, chairman of the committee on Finance, submitted the following report:

The committee on finance have considered a bill to amend an act to raise revenue by taxation—approved the 11th of Feb., 1830. The bill contemplates reducing the taxes from 15 cents to 12 cents on the hundred dollars of the valuation of property. This tax the committee are of opinion will raise revenue sufficient for the economical administration of the State Government. They therefore return the bill, and recommend its passage.

Mr Truit from the committee on private land claims No. 1, made the following report:

The committee on private land claims, to which was referred the memorial of Arthur Applewhite, have examined the same, and find that said Applewhite emigrated to Texas in 1834; that on the 5th day of June, 1835, he took the oath of allegiance to the Republic of Mexico, and was in due form admitted to citizenship, and recognized as a colonist of Austin's colony; that he continued to reside in Texas, and perform the duties of a good citizen, until after the battle of San Jacinto, aiding Texas in her struggle for independence. It appears that after this he left Texas, and was absent therefrom several years, when he returned; and he now resides in the State. At the time of his emigration, he was a married man, and had his family in the country with him. His wife died during his absence from the country, and his children now reside beyond its limits. The committee are of opinion, that as said Applewhite was regularly admitted as a citizen, and performed his duty as such during the darkest period of our history, and now resides in the country, he is entitled to a headright of one league and one labor of land: I am, therefore, instructed to report the accompanying bill, and commend its passage.

"A bill for the relief of Arthur Applewhite:" read 1st time.

Mr. Bryan, Chairman of the committee on Public Buildings, made the following report:

The committee on Public Buildings have considered "A bill to provide for the erection and furnishing of a fire-proof build-

ing, to be used as a General Land Office for the State of Texas," and report it back, recommending its passage.

The present land office is entirely too small for the business of the office, which is constantly increasing.

Mr. Truit, from the committee on Private Land Claims No. 1, to which was referred "A bill for the relief of Wm. H. Hudson," reported the same back, recommending its passage.

Mr. Flanagan, chairman of the committee on Internal Improvements, to which was referred the petition of the Aransas Road Company, reported the accompanying bill, recommending its passage.

A bill supplementary to an act to incorporate the Aransas Road Company, approved Feb'y 14th, '52: read first time.

Mr. Flanagan, chairman of the same committee, to which was referred a bill amendatory and supplementary to an act to encourage the construction of railroads in Texas, by donations of land, reported the same back, recommending its passage.

Mr. Martin, from the committee on the Judiciary, to which was referred a bill for the relief of the citizens of Mercer's colony, reported a substitute therefor, recommending it to the favorable consideration of the Senate.

Mr. Burroughs, chairman of the select committee, made the following report:

The select committee, to which was referred a resolution requiring them to investigate the recent frauds alleged to have been committed in obtaining bounty, donation, and headright certificates, have had the same under consideration, and find that about ten thousand one hundred acres of land have been patented by virtue of certificates which the committee believe to be fraudulent. The means used in procuring these certificates, were fully reported on by the committee on the 21st inst., together with a bill to detect the spurious certificates; and the committee now herewith report a bill to provide for cancelling patents issued upon false or forged evidence, and recommend its passage: which bill, if it be passed, will, it is believed, attain the object sought, to wit: the cancelling of all patents that may have been issued upon forged and spurious certificates. The committee, having complied with the requirement of the resolution, beg to be discharged from its further consideration.

A bill to provide for cancelling patents issued upon forged evidence: read first time.

On motion of Mr Burroughs, the rule was suspended, bill read second time, and made special order for to-morrow the 25th instant.

Mr Taylor, of Cass, from the committee on Public Debt, made the following report:

The committee on Public Debt have had under advisement, the petition of Wm. Oldham. The petitioner sets forth, that he volunteered in the Summerville expedition, in the year 1842, as a private, and was promoted to the office of pay-master by the commanding officer; that he has only received pay as a private, and now asks the increase pay as pay-master. He proves that he did receive the appointment, and was recognized as such: under the law, he should have been appointed by the President of the Republic, as no one else had a right to appoint. All things considered, we think to grant the prayer of the petitioner would be travelling beyond the law in such cases, and therefore recommend the rejection of the petition.

On motion of Mr. Millican, the rule was suspended, and the report taken up.

On motion of Mr. Millican, the petition was re-referred to the committee on Public Debt.

On motion of Mr. Armstrong, the House bill to create the county of Lampasas, was taken up and read first time.

Mr. Armstrong moved the suspension of the rule: carried, and the bill read second time, and passed to third reading.

On motion of Mr. Armstrong, the rule was farther suspended; the bill read third time and passed.

Mr. McCulloch presented the petition of the heirs of Thos. H. Roberts: referred to the committee on Private Land Claims No. 1.

Mr. McDade presented the petition of J. H. and Mary A. Dawson: referred to the committee on Private Land Claims No. 1.

Mr. Pedigo introduced a bill donating lands to colleges and universities: read first and second times, and referred to the committee on Education.

Mr. McCulloch introduced a bill for the relief of Leasael B. Harris: read first and second times, and referred to the committee on Private Land Claims No. 2; also, a bill to authorize the auditing and payment of certain claims against the late Republic of Texas: read first and second times, and referred to the committee on Public Debt.

On motion of Mr. Scott, a bill to amend the caption and the first section of an act to incorporate the Texas Western Railroad Company, approved 16th Feb'y, 1852, was taken up and read.

Mr. Scott offered the following amendments:

1st. Amend the caption by inserting the word "sixteen" between the words "first and," and "sections," in the first line of the caption.

2d amendment. Add the following section as an amendment to, and in lieu of, section 16th of the original bill: "2d Section.

That the 16th section of the act to which this is an amendment, shall hereafter read as follows: 'Said company shall be required to have a good and sufficient braek upon the hindmost car, in all trains transporting passengers or merchandize; and also, permanently stationed there, a trusty and skilful braekman, under a penalty not exceeding one hundred dollars for each offence—to be recovered in any court of competent jurisdiction, for the benefit of the State: and said company shall cause to be placed on each locomotive engine passing on their road, a bell of the weight of at least thirty-five pounds, or a steam whistle; and the said bell shall be rung, or whistle blown, at the distance of at least eighty rods from the place of crossing any highway or turnpike, and kept ringing or blowing until the engine has passed or stopped. Said company shall be required to construct their railroad with good T or U iron rails: *provided* that no land shall be donated, unless the company shall actually commence their road within four years, and actually finish grading and furnishing cross ties for at least ten miles, within five years; and that this act shall not be construed as any extension whatever, of the time of commencement of said road, as required in the original act; and that this act take effect, and be in force, from and after its passage.

Mr Martin moved to refer the bill and amendments to the committee on Internal Improvements; lost.

Mr Martin then moved the postponement of bill and amendments to Saturday the 26th inst.; lost by the following vote:

YEAS—Messrs. Armstrong, Bryan, Burroughs, Martin, Maverick, Millican, Scarborough and Superviele—8.

NAYS—Messrs. Allen, Caldwell, Flanagan, Grimes, Guinn, Hill, Hord, Lott, McCulloch, McDade, Palmer, Pedigo, Pirkey, Potter, Russell, Scott, Taylor, of Cass, Taylor, of Fannin, Truit, Weatherford, White and Wren—22.

Mr Martin then moved to lay the first amendment on the table; lost.

The amendments were then adopted, and the bill ordered to be engrossed.

Mr Scott moved the suspension of the rule for the final reading of the bill; lost.

ORDERS OF THE DAY.

A bill for the relief of the creditors and colonists of the German Emigration Company, and to indemnify said Company for lands given by the State to the colonists.

On motion of Mr Palmer, the bill was laid on the table for the present.

Mr Flanagan, chairman of the committee on Internal Improvements, to which was referred a bill making appropriations for the improvement of the navigation of the rivers of the State, and a substitute therefor, entitled a bill to encourage the improvement of the navigation of the rivers and other navigable streams in Texas, by making appropriations for the same, reported them back with amendments, recommending the adoption of the substitute and amendments, and the passage of the bill.

Amendments to substitute :

1. In the caption strike out "streams" and insert "waters."
2. In the first section, strike out "streams" and insert "waters."
3. In the 2d section, strike out "four times" and insert "twice."
4. In 3d section, in lieu of "ten per cent on the amount received and disbursed," insert "five per cent on the amount received and five per cent on the amount disbursed."
5. In line next to the last, in 5th section, fill the blank with \$300.
6. In section 7th, strike out "fourth" and insert "half."
7. Strike out section 8th, and insert in lieu thereof—"That money may be raised in the same manner as provided in this Act for the construction of any canal between any two navigable points, and any canal for the construction of which any amount may be so raised by private subscription, or appropriation, shall be entitled and subject to all the benefits and provisions of this Act, provided that no money shall be drawn from the Treasury for the benefit of any such canal until satisfactory evidence has been shown to the Governor, together with the report of a competent engineer, that the amount raised by private subscription, together with the amount to which said private subscription shall entitle it from the State Treasury, will be amply sufficient to construct and complete said canal so as to connect two navigable points with a good navigable channel, and provided that no canal, or any river, bayou, lake, or bay, receiving the benefits of the provisions of this Act, shall at any time receive or collect tolls for the navigation of the same—and that this Act take effect and be in force from and after its passage."
8. In 3d section, after the word "taken," in 4th line, 2d page, insert—"and no subscription shall be received by said Collector and Treasurer, unless at least five per cent of said subscription is paid in actual cash."
9. Before the word "it," in 8th line, 5th section, insert—"and that five per cent of said subscription has been actually paid in cash."

On motion of Mr Palmer, the report and bill were made the special order for this evening, at 3 o'clock.

On motion of Mr Caldwell, the Senate adjourned till 3 o'clock P. M.

3 o'clock P. M.

Senate met—roll called—quorum present.

Report of the committee on Internal Improvements, on "a bill making appropriations for the improvement of the navigation of the rivers of the State," and substitute therefor, entitled "A bill to encourage the improvement of the navigation of the rivers and other navigable streams in Texas, by making appropriations for the same," offering amendments thereto.

On motion of Mr Palmer, the substitute was adopted, and the amendments acted on separately.

The first and second amendments were then adopted.

On motion of Mr Bryan, the third amendment was laid on the table.

Mr Palmer moved to amend the 5th amendment by striking out \$3 and inserting \$5; lost.

On motion of Mr Flanagan, the \$3 was stricken out and \$4 inserted.

On motion of Mr Palmer, the 6th amendment was laid on the table.

The 7th, 8th and 9th amendments were then adopted.

Mr Weatherford then offered the following amendment:

"Provided, that the amount that has heretofore been raised by subscription of individuals, and spent upon said rivers, under the supervision of any board or boards for such purposes, shall have the right to claim four times the same amount out of the Treasury, to be expended where the same private subscription has heretofore been expended, under the said engineer or superintendent."

On motion of Mr Guinn, laid on the table.

Mr Truit offered the following as an amendment to Section Sth:

"That any sum of money appropriated by the State of Louisiana to the improvement of the navigation of the Sabine river, shall have the same effect as though the same had been raised by the citizens of this State for the improvement of said river, and a certified copy of the Act of the State of Louisiana, making an appropriation for the improvement of the navigation of said river, shall be sufficient evidence that such appropriation has been made—and that the sum drawn from the Treasury under the provisions of this Act, shall be expended in the im—

provement of the navigation of said river, commencing at the foot of the "Narrows," and ascending until the appropriation is exhausted." Rejected.

The bill was then ordered to be engrossed by the following vote :

YEAS—Messrs Allen, Armstrong, Bryan, Caldwell, Doane, Flanagan, Hill, Hord, McDade, Martin, Maverick, Millican, Palmer, Pedigo, Potter, Scott, Superviele, Taylor, of C., Truit, Whitaker and White—22.

NAYS—Messrs Burroughs, Grimes, Gainn, Pirkey, Russell, Taylor, of E., and Weatherford—7.

Mr Palmer moved a suspension of the rule, for the final reading of the bill ; lost.

Mr Allen, from the committee on Enrolled Bills, made the following report :

The joint committee on Enrolled Bills have examined the following bills viz :

A bill for the relief of the heirs of Elizabeth Jones, dec'd.

A bill to create the county of Erath.

A bill to create the county of Atascosa.

A bill confirming certain headright grants of land lying on the boundary line of Austin's Colony and Roberson's Colony.

A bill to legalize the official acts of Jno. H. Smithers, District Court Clerk of Bowie county.

A bill to incorporate LaGrange Lodge, No 30, of the I. O. of O. F.

A bill to define the time of holding courts in the 12th Judicial District.

A bill donating to Mrs Elizabeth Crockett, one league of land; and

A bill to incorporate the city of Marshall, and find the same correctly enrolled, properly signed, and this day presented to the Governor.

On motion of Mr Hill, a bill relinquishing to the counties the State tax for the years 1856 and 1857, was taken up and read third time.

Mr Russell moved to lay the bill on the table—lost.

On motion of Mr Grimes, a call of the Senate was ordered. Absentees—Messrs Flanagan, Hord, Lott, McCulloch, Scarborough and Taylor of Fannin.

The following communication from the Governor was received :

EXECUTIVE OFFICE,
AUSTIN, Texas, 24th January, 1856. }

Gentlemen of the Senate

and of the House of Representatives:

I return herewith, to the Senate "An Act for the relief of certain Sheriffs therein named."

This act requires the Comptroller to audit the account of Jacob B Harrell, Sheriff of Williamson county, for the sum of eighty-seven dollars, expenses incurred by him in conveying Massillon Farley, a convict to the Penitentiary; and also the claim of John A Vernon, late Sheriff of Nueces county, for the sum of one hundred and twenty-five dollars, expenses incurred by him in conveying George Green and John Hunter to the Penitentiary, and also requires the State Treasurer to pay the same. The 9th Section of an "Act to establish a State Penitentiary," approved 13th March, 1848, (Hartley's Digest, Article 2672) establishes what the compensation of Sheriffs and guards shall be for conveying prisoners to the Penitentiary, and makes the Superintendent of the Penitentiary the Judge of the number of guards necessary to be employed, and also provides that all such accounts shall be paid on the certificate of the Superintendent. The accounts of this description were audited by the Comptroller on the certificate of the Superintendent and paid at the State Treasury from the organization of the Penitentiary until the 16th of February, 1852, when an act was passed authorizing the Directors of the Penitentiary to appoint a purchasing agent, who was authorized to receive from the Treasury the appropriations for the Penitentiary and disburse them. Since the appointment of this agent all accounts of this description are paid by him at Huntsville, on the certificate of the Superintendent, and no account of them is returned to the Comptroller.

The presumption is that these two Sheriffs presented their accounts, for conveying these prisoners, to the Superintendent, when they delivered the prisoners, had them certified by him and paid by the disbursing agent. Such is the course required to be pursued under the laws. I have no means of ascertaining whether this was done, but it certainly was the duty of these persons to produce the certificate of the disbursing agent that these accounts were never paid by him, before they asked the Legislature to pay them. When the laws have made ample provision for persons to obtain the payment of their claims against the State without the interposition of the Legislature, they ought to avail themselves of those pro-

visions, and not be encouraged to come to the Legislature for relief. The Legislature has not the same means here to enquire into the justice of such claims as the Superintendent has, who knows how many guards accompany the Sheriff, and by seeing the Prisoner can form an estimate what number of guards were necessary. Besides, the Legislature has not the means here of ascertaining whether the accounts have not previously been paid by those whose duty it was to pay them. I have proceeded upon the assumption, that these accounts were for the regular and legal compensation of these Sheriffs for conveying these prisoners to the Penitentiary, and cannot, therefore, approve of this act, because I have no evidence before me that they have not been paid by the Disbursing Agent, at Huntsville, whose duty it was to pay them. If, however, these accounts are for extra compensation, over and above that which the law prescribes for such services performed by sheriffs, then I feel constrained to withhold my approval from it, because it will be a violation of the 7th Section of the 7th Article of the Constitution of this State.

The Legislature has, as before stated, provided by law, what the compensation shall be to sheriffs for carrying prisoners to the Penitentiary, and the Section of the Constitution referred to declares, that they shall not grant extra compensation to any officer, agent, servant, or public contractor after such service shall have been performed.

This act is therefore returned to you for reconsideration.

E. M. PEASE.

On motion of Mr Potter, laid on the table until Monday next.

Mr Hill moved a suspension of the call of the Senate—carried—and the bill relinquishing the State tax to the counties for the years 1856 and 1857 was passed by the following vote.

YEAS—Messrs Armstrong, Bryan, Caldwell, Doane, Flanagan, Guinn, Hill, McDade, Martin, Millican, Palmer, Pedigo, Pirkey, Potter, Taylor, of Cass, Tritt and Weatherford—17.

NAYS—Messrs Burroughs, Grimes, Hord, Maverick, Russell, Scott, Superviele, Taylor, of Fannin, Whitaker, White and Wren—11.

On motion of Mr Scott, a bill to amend an act entitled an act to raise a revenue by taxation, approved February 11th, 1850, was taken up, read, and on motion of Mr Hill referred to the committee on the Judiciary.

Mr Martin moved a reconsideration of the vote taken on yesterday passing a bill to incorporate the Henderson and Burkeville Rail Road Company—the Governors veto to the contrary notwithstanding.

Pending which, on motion of Mr Burroughs the Senate adjourned until to-morrow morning at 10 o'clock.

FRIDAY, Jan. 25th, 1856.

The Senate was called to order by the President pursuant to adjournment—Prayer by the chaplain—roll called—quorum present.

The journal of yesterday was read and adopted.

Mr Ginn, chairman of the committee on engrossed bills, reported as correctly engrossed—

A bill to encourage the improvement of the navigation of the rivers, and other navigable waters in Texas, by making appropriations for the same,

And a bill to amend the caption and 1st and 16th sections of an act to incorporate the Texas Western Rail Road Company—approved 15th Feb., 1852.

Mr Taylor of Cass, chairman of the committee on public debt, made the following report :

The committee on public debt have had under consideration,

A bill to authorize the auditing and payment of certain claims against the Government for articles used by our own army, during the period of the revolution—upon the testimony of two or more witnesses—and requires the Treasurer to pay the same out of any money in the Treasury. The committee are of opinion that to adopt this policy, would be a dangerous precedent, which they fear would result in great injury to the State ; for once admit the testimony of two witnesses to audit and pay this character of claims, and there is no telling where it would end. That many just and meritorious claims would be paid, we admit ; but we think it would be better to relieve those cases by special legislation, than to open the door of the treasury as proposed by this bill. We therefore recommend its rejection.

Mr Bryan presented the petition of Wm. L. Sartwell ; referred to committee on private land claims, No. 1.

Mr Hord, chairman of the committee on State affairs, to which was referred—

A House bill for the better security of the archives of the State department,

And a bill creating a fund for the erection and support of a lunatic asylum, reported the same back, recommending their passage.

Mr Hord, chairman of the same committee, made the following reports :

The committee on State affairs have considered a bill to regu-